



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Malta Field Office
501 South 2nd Street East
Malta, Montana 59538-0047
www.blm.gov/mt

In Reply Refer To:
4100(4160.1)(P)
GR#2504616

December 28, 2015

Certified Mail-Return Receipt Requested #7013 3020 0001 5593 2834

American Prairie Reserve
P.O. Box 908
Bozeman, MT 59771-0908

NOTICE OF PROPOSED DECISION

BACKGROUND

The 15439 Flat Creek Allotment is an I (Improve) category allotment located in south Phillips County. The Flat Creek Allotment was adjudicated in 1964 and 1243 AUMs of Federal grazing privileges were allocated. Range condition scoring conducted in 1987 and repeated in 1990 placed all three pastures of the allotment in "good" range condition. In 2008 the allotment was assessed as part of the Beaver Creek Watershed evaluation process and was found to be meeting all standards for rangeland health. The allotment was reassessed in 2014, and although no final report or determination has been completed, all indications were that all rangeland health standards were being met, or if not, were not caused by livestock grazing.

In 2014 the private land was sold to the American Prairie Reserve (APR) and the grazing permit was transferred to them. In February of 2015 APR applied for a change in kind of livestock from cattle to bison, a change to year around use, and authorization to remove all interior fencing. Under this proposal, approximately 6130 acres of private land associated with the base property that previously was not part of the allotment would be added to the allotment and managed along with the BLM lands.

A Malta Field Office BLM interdisciplinary team completed an Environmental Analysis (DOI-BLM-MT-M010-2015-0004-EA) to analyze the applied for changes and issuance of a 10 year grazing permit to authorize American Prairie Reserve to graze bison on public lands in the 15439 Flat Creek allotment.

PROPOSED DECISION

It is my Proposed Decision, to issue a 10 year grazing permit to American Prairie Reserve with the following terms and conditions plus additional actions:

Allotment	Pasture	Livestock		Grazing Period		% PL	Type Use	AUMS
		Number	Kind	Begin	End			
15439 Flat Creek		385	I	03/01	02/28	27	Active	1247

Other Terms and Conditions

Bison are the indigenous species authorized to graze under the specified terms and conditions on this permit.

The terms and conditions of this permit may be modified if additional information indicates that revision is necessary to meet the Standards of Rangeland Health as described in 43 CFR 4180 (Code of Federal Regulations; Administration of Grazing on Public Lands) and the Desired Seasonal Habitat Conditions for Greater Sage-Grouse as outlined in the approved HiLine RMP (2015).

If habitat conditions for Greater Sage-Grouse on more than half of 3 or more key sites within the allotment fail to be achieved due to livestock grazing as determined by on-the-ground monitoring, livestock numbers will be reduced by 10%, and may be reduced another 10% the following year if habitat conditions remain unimproved. Livestock numbers would only be restored to full numbers when a management action plan is in place to correct the reason(s) for the failure occurring.

Motorized wheeled cross-country travel for the permittee is limited to the administration of the grazing permit, including checking vegetation conditions, building or maintaining fences, delivering salt and supplements, moving livestock, and checking wells or pipelines as part of the implementation of the grazing permit.

The permittee shall provide reasonable administrative access across private and leased lands to the Bureau of Land Management for the orderly management and protection of the public lands.

Permitted Use will remain at 1243 AUMs

Additional Actions

The Flat Creek Allotment Management Plan will be discontinued. The removal of all interior fencing is authorized.

MITIGATION AND CONSERVATION ACTIONS

All fences within 1.2 miles of sage-grouse leks should be marked to decrease the chance of sage-grouse collisions.

The allotment will be monitored by the BLM every year for the first 3 years to ensure that rangeland health standards are continuing to be met and that no resource issues are identified. A timing limit of December 1 to May 15 should be applied for any surface disturbing activities associated with this permit. Exceptions to the timing limit could be approved by the Malta Field Office.

RATIONALE

The permittee has a proven track record on both the Box Elder and Telegraph Creek Allotments of being able to husband their livestock and steward the rangeland resources in a responsible manner under similar management to that being authorized.

Removal of interior fencing will likely be a benefit to wildlife species by removing manmade barriers and reducing habitat fragmentation, especially when combined with the addition of 6130 acres of private lands not previously part of the allotment, which will be returned to rangeland habitat.

The public land allocation will remain unchanged at 1243 AUMs.

AUTHORITY

The following sections of the Code of Federal Regulations, Title 43, provide authority for the actions proposed in this decision.

§4130.1 Applications.

§4130.2 Grazing permits or leases.

§4130.3 Terms and conditions.

§4130.3-1 Mandatory terms and conditions.

§4130.3-2 Other terms and conditions.

§4180 Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration.

§4160.1 Proposed decisions

§4160.2 Protests

§4160.3 Final decisions

§4160.4 Appeals

The language of the cited sections can be found at the following web address:

http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2009/IM_2009-109.html

RIGHT OF PROTEST AND APPEAL

Protest:

Any applicant, permittee, lessee, or other affected interest may protest a Proposed Decision under Sec. 43 CFR§4160.1. Any protest shall be made in person or in writing within 15 days after receipt of this proposed decision to:

Vinita Shea, Field Manager
Bureau of Land Management, Malta Field Office
501 South 2nd Street East
Malta, MT 59538

The protest, if filed, should clearly and concisely state the reason(s) why this Proposed Decision is in error.

A written protest electronically transmitted (e.g., email, facsimile, or social media) will not be accepted as a protest. A written protest must be on paper.

This policy does not apply to protests made “in person” under the grazing regulations (see 43 CFR 4160.2). When receiving a grazing protest made in person, the authorized officer prepares a record of the protest while the protestant is present and the protestant signifies that the record is a complete and accurate portrayal of the protest by signing and dating the authorized officer’s record of protest.

In the absence of a protest, this Proposed Decision will become my Final Decision without further notice.

Appeal:

Any applicant, permittee, lessee, or other person whose interest is adversely affected by the Final Decision may file an appeal in accordance with 43 CFR 4.470 and 43 CFR 4160.1-4. The appeal may be accompanied by a petition for stay of the Final Decision in accordance with CFR 4.21, pending final determination of an appeal. The appeal and petition for stay must be filed in the office of the authorized officer, as noted above, within 30 days following receipt of the Final Decision, or within 30 days after the date the Proposed Decision becomes final.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the Final Decision is in error and otherwise comply with the provisions of 43 CFR 4.470 which is available from the BLM office for your use in a BLM office.

In accordance with 43 CFR§4.21(b)(1), a petition for stay, if filed, must show sufficient justification based on the following standards:

- 1) The relative harm to the parties if the stay is granted or denied.
- 2) The likelihood of the appellant’s success on the merits
- 3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- 4) Whether the public interest favors granting the stay.

Find enclosed your new grazing permit. Please sign and date, then return to the Malta BLM Field Office for final processing. Once authorized, an Operator copy of the grazing permit will be mailed to you for your records.

If you have any questions please contact BJ Rhodes, Rangeland Management Specialist at 406-654-5120.

Sincerely,

/s/ *Vinita Shea*

Vinita Shea
Field Manager

Cc: Western Watersheds, Missoula
Certified Mail- Return Receipt Requested #7012 3050 0000 6421 8731

Cc:	Kathryn QannaYahu	Vic & Leigh Hansen
Sherman Lacock	Pat Povah	Patrick K Hickey
Dwain "Fritz" Prellwitz	Debra Pankratz	Orvin Solberg
DNRC c/o Mathew Poole	Montana Grass	Missouri River Stewards
Karyl Barnes	Conservation Commission	c/o Ron Poertner
Rose Stoneberg, DVM	Vicki Olson	North Blaine County
Bryan Kindle	Whitney Reints	Cooperative State Grazing
John Lacey, Ph.D	Jason Olson	District c/o Cheryl M.
Broadwater Conservation	Millie Kindle	Schuldt
District c/o Denise	Montana Association of	Buffalo Creek Cooperative
Thomson	Conservation Districts	State Grazing District c/o
Buggy Creek Cooperative	Phillips County Farm	Vicki W. Dunaway
State Grazing District c/o	Bureau c/o Tom DePuydt	John Schultz
Wayne Anderson	Steven Lacock	Greg Kielb
Molly Rotenberger	Merrilyn Black	Hal J. DeBoer
Madison Rotenberger	Bill & Ruth Mitchell	North Phillips State Co-
Riggs Rotenberger	Montana Farm Bureau	operative Grazing District
Michelle Rotenberger	Federation c/o Robert	North Phillips State Co-
Chad Rotenberger	Hanson	operative Grazing District
Flathead Wildlife, Inc c/o	Jerome Faith	c/o John Barnard
Chuck Hunt	Nancy Ereaux	Jack Billingsley
F.E. Seel	Chain Buttes Cooperative	Richard O. Dale
Red Canyon Buffalo	State Grazing District c/o	Greg & Ruth Salveson
Ranch c/o Kathleen O'Neal	Lee Iverson	Southeast Montana
Gear	Montana Community	Livestock Association c/o
Greg & Jenny Oxarart	Preservation Alliance c/o	Mike Schuldt
Jason & Jamie Ulrich	Michael Fred Ereaux	Joan McKeown
Montana Wool Growers	John Arnold	Chris King
Association c/o Brent	C & B Cooperative	South Phillips County
Roeder	Grazing District	Grazing District

Craig R French

Doug Simanton

Lela French

United Property Owners of
Montana c/o Charles
Denowh

Wittmayer-Silver Dollar
Grazing Associations c/o
Leonard Swenson

Phillips Conservation
District

Phillips County Livestock
Association c/o Jesse Blunt

James A Murdock

David Pippin

Phillips County
Commissioners

Warren & Lori Taylor

Sonny Obrecht

Terry Korman

Ron & Maxine Korman

William French

Christopher Tassava

C.T. Ripley

Harry Cosgriffe

Sweet Grass County
Conservation District c/o
Kevin Dawe

Perri Jacobs

Ron Stoneberg

Valley County
Commissioners

Gladys Walling

Mark Manoukian

Diane Dirkson

Kevin & Brenda Koss

Rob Reukauf

Mary V. Jones

Eileen L. Hastad

Indian Butte Cooperative
State Grazing District c/o
Cathy Whitney

Ted Kelly

Harold Hunter

Badland Cooperative State
Grazing District c/o Loran
Albus

Glenn Monahan

Ann Halverson

George Wuerthner

Norman Bishop

Pat Simmons

Dyrck Van Hyning

Jack Jones

Rick Miller

Edward B. Butcher

Joe Perry

Dale Veseth

Brian & Vicki Eggebrecht

Bruce Christofferson

Conni French

Pat Anderson

Leo Barthelmess

Troy Blunt

Dan Kluck

Shirley Dunbar

North Valley Cooperative
State Grazing District

Willow Creek Cooperative
State Grazing District

Darrell & Vicki Olson